ORDER OF THE COURT
16 JUNE 1965[1]

In Case 58/64

GRUNDIG-VERKAUFS-GMBH, the registered office of which is at Fürth (Bavaria),

applicant,

v

COMMISSION OF THE EUROPEAN ECONOMIC COMMUNITY,

defendant,

Facts

Whereas by an application made on 12 May 1965 the UNEF company whose registered office is in Paris has shought leave to intervene in Case 58/64 in support of the conclusions of the defendant;

Whereas the applicant in the main action seeks the annulment of the decision of the EEC Commission of 23 September 1964, which decision held the exclusive distributorship contract as well as the ancillary agreement on the registration and use of the GINT trade-mark made between the Grundig and Consten companies to constitute an infringement of the provisions of Article 85 of the EEC Treaty;

Whereas the intervener appealed in 1962 before the Cour d'Appel, Paris, against a judgment given on 21 May 1962 by the Tribunal de Commerce of the Seine between Établissements Consten and itself;

Whereas that court, basing itself upon the sole distributorship contract made between Grundig and Consten held *inter alia* that UNEF by selling Grundig radio and electrical apparatus had committed acts of unfair competition causeing damage to Établissements Consten, and ordered it to pay damages and to cease all publicity and the soliciting of custom in respect of the sale of Grundig equipment on the territory granged to Consten;

Whereas in its appeal UNEF, repeating submissions which it had made at first instance, submitted *inter alia* that the exclusive distributorship contract existing between Établissements Consten and the Grundig company was void under Articles 85 and 86 of the EEC Treaty;

Whereas the Cour d'Appel, Paris, by a judgment of 26 January 1963 setting aside the judgment appealed against to the extent to which it rejected the application for a stay of proceedings made by UNEF decided to stay proceedings until a final decision had been made following the proceedings initiated by the EEC Commission, after UNEF had lodged with it on 12 March 1962 a request for a finding of the nullity of the agreement made on 1 April 1957 between Grundig-Verkaufs-GmbH and Établissements Consten;

Whereas in consideration of the foregoing, the intervener asserts that it has the greatest interest in being allowed to intervene in the present case to support the conclusions of the Commission;

Whereas by a statement lodged on 20 May 1965 the EEC Commission declared that it had no objection to raise against UNEF's being permitted to intervene, the conditions laid down in Article 37 (2) of the Statute of the Court of Justice of the EEC being in its opinion fulfilled;

Whereas the applicant in the main proceedings lodged no observations on the admissibility of the application to intervene.

1 — Language of the Case: German.

LAW

Whereas under Article 37 (2) of the Statute of the Court annexed to the EEC Treaty any person establishing an interest in the result of any case has the right to intervene in that case;

Whereas the interest necessary in this respect must not relate simply to abstract legal arguments but to the actual conclusions of a party to the main action;

Whereas in the present case, in consideration of the importance of the contested decision in relation to the outcome of the proceedings pending before the French court between UNEF and Consten, the acceptance or rejection of the conclusions of the defendant cannot fail to exercise a decisive influence on the outcome of the abovementioned case;

Whereas therefore the position of the applicant in relation to the outcome of the present case is such as to establish its interest in intervening in support of the conclusions of the defendant in accordance with Article 37 (2) of the Statute of the Court of Justice of the EEC;

Whereas it follows from the foregoing considerations that the application to intervene must succeed;

On those grounds,

Upon reading the pleadings;
Upon hearing the report of the Judge-Rapporteur;
Upon hearing the opinion of the Advocate-General;
Having regard to Article 37 (2) of the Statute of the Court of Justice of the EEC;
Having regard to the Rules of Procedure;

THE COURT

composed of: Ch. L. Hammes, President, A. M. Donner and R. Lecourt, Presidents of Chambers, L. Delvaux, A. Trabucchi (Rapporteur), W. Strauß and R. Monaco, Judges,

Advocate-General: K. Roemer
Registrar: A. Van Houtte

hereby makes the following

ORDER

1. The UNEF company is authorized to intervene in Case 58/64. A time-limit shall be fixed for the lodging of the intervener s written observations in support of the conclusions of the defendant;

2. A copy of each pleading shall be served on the intervener by the Registrar;

3. The costs are reserved.

Luxembourg, 16 June 1965.

A. Van Houtte
Registrar

Ch. L. Hammes
President